

Message Text

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FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC 9892

C O N F I D E N T I A L SAN JOSE 1495

EXDIS

E.O. 11652: GDS

TAGS: PFOR, PINT, CS

SUBJECT: VESCO: EXTRADITION LAW

1. FOREIGN MINISTER FACIO CALLED ME IN THIS MORNING TO PRESENT COSTA RICAN GOVERNMENT'S REPLY TO EMBASSY'S AIDE MEMOIRE OF JUNE 1974 CONCERNING THE COSTA RICAN EXTRADITION LAW.

2. FACIO APOLOGIZED FOR DELAY IN REPLY TO AIDE MEMOIRE, WHICH, HE SAID, HAD BEEN DELIVERED IN HIS ABSENCE AND WAS SENT DIRECTLY TO ATTORNEY GENERAL, WHO OBVIOUSLY FAILED TO TAKE ANY ACTION. FACIO SAID HE SAW THE AIDE MEMOIRE FOR THE FIRST TIME LAST WEEK WHEN PRESIDENT ODUBER BROUGHT IT TO HIS ATTENTION FOLLOWING HIS CONVERSATION WITH ME AND THE RECEIPT OF THE LETTER FROM ASSISTANT SECRETARY ROGERS.

3. FOLLOWING ARE PRINCIPAL POINTS IN FACIO'S REPLY:

A. THE PROVISIONS OF THE EXISTING EXTRADITION TREATY PREVAIL OVER ANY INTERNAL RULE OF LAW NOT SPECIFICALLY CITED IN THE TREATY, INCLUDING THE EXTRADITION LAW IN QUESTION. THE MINISTRY HOLDS THAT THE TREATY GOVERNS EXCLUSIVELY ALL SUBSTANTIVE MATTERS DEALT WITH IN THE TREATY. WITH RESPECT TO TERMINOLOGY AND PROCEDURES NOT COVERED BY THE TREATY, THE MINISTRY SAYS THE LAW WOULD APPLY UNLESS A SUBSTANTIVE RULE OF THE TREATY WOULD BE INVALIDATED THEREBY.

B. WITH RESPECT TO NUMEROUS QUESTIONS IN OUR AIDE MEMOIRE
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ABOUT THE EFFECTS OF THE LAW ON VARIOUS INTERNATIONAL OBLIGA-

TIONS OF COSTA RICA IN THE FIELDS OF TERRORISM, HIJACKING AND NARCOTICS CONTROL, THE MINISTRY MAINTAINS RATHER INDIGNANTLY THAT OF COURSE THE STANDING INTERNATIONAL AGREEMENTS TAKE PRECEDENCE OVER ANY DOMESTIC LAW AND WILL CONTINUE TO BE HONORED.

4. FACIO REPEATED HIS OPINION THAT THE FIRST EXTRADITION ATTEMPT WAS VERY BADLY PRESENTED, PROBABLY BECAUSE OF POOR LEGAL ADVICE. HE INSISTED THAT IF A GOOD CASE HAD BEEN PRESENTED AND THE COURTS HAD GIVEN A FAVORABLE RULING, COSTA RICAN GOVERNMENT WOULD HAVE COMPLIED. HE ADDED THAT THEN, AS NOW, NO COSTA RICAN EXECUTIVE COULD AFFORD TO GO AGAINST COURT RULING AND WOULD NOT ATTEMPT TO DO SO.

5. IN RESPONSE TO MY QUESTION WHAT FACIO THOUGHT COULD BE DONE TO RESOLVE VESCO PROBLEM, HE EXPRESSED BELIEF THAT BEST APPROACH WOULD BE TO PREPARE AND PRESENT STRONGEST CASE POSSIBLE. HE SAID THAT TO HELP IN SUCH EFFORT HE HAD ENCOURAGED HIS LAW PARTNERS TO APPEAR BEFORE GRAND JURY AND TO SAY EVERYTHING THEY KNOW ABOUT THE CASE. HE VOLUNTEERED THAT HIS LAW FIRM HAD REPRESENTED VESCO SHORTLY AFTER VESCO'S ARRIVAL IN COSTA RICA, BUT HE SAID THE FIRM NO LONGER HAD ANY INTEREST IN DOING SO, NOR TO ENGAGE IN ANY ACTION PROTECTIVE OF VESCO.

6. FACIO REALIZED HARM THAT VESCO'S PRESENCE HERE WAS DOING TO COSTA RICA'S IMAGE, GOING FAR BEYOND ANY FINANCIAL GAIN THAT THE COUNTRY MIGHT GET. HE SAID BEST SOLUTION, OF COURSE, WOULD BE FOR VESCO TO LEAVE COSTA RICA VOLUNTARILY AND RETURN TO UNITED STATES TO STAND TRIAL. UNFORTUNATELY, HE DOUBTED THAT THIS WOULD HAPPEN BECAUSE VESCO SEEMED TO CONSIDER HIMSELF AS BEING THE SUBJECT OF POLITICAL PERSECUTION.

7. FACIO REPEATED HIS GOVERNMENT'S INTENTION TO COOPERATE FULLY WITH ANY STEPS SEEKING TO RECOVER ASSETS WHICH MAY HAVE BEEN ILLEGALLY OBTAINED FROM THEM BY VESCO.

8. THE FULL TEXT OF THE FOREIGN MINISTRY'S REPLY IS BEING FORWARDED BY NEXT POUCH AND WE WILL TRANSMIT COMMENTS BY CABLE TOMORROW.

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